

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 409

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY
Joe Thompson

AN ACT

RELATING TO THE PUBLIC DEFENDER; INCREASING THE AMOUNT OF THE
FEE PAID WHEN A PERSON APPLIES WITH A DISTRICT PUBLIC DEFENDER
FOR REPRESENTATION; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-15-12 NMSA 1978 (being Laws 1973,
Chapter 156, Section 12, as amended) is amended to read:

"31-15-12. EXPLANATION OF RIGHTS--WAIVER OF COUNSEL--
APPLICATION FEE--INDIGENCY DETERMINATION.--

A. If [~~any~~] a person charged with [~~any~~] a crime or
a delinquent act that carries a possible sentence of
imprisonment appears in [~~any~~] a court without counsel, the
judge shall inform him of his right:

(1) to confer with the district public
defender; and

underscored material = new
[bracketed material] = delete

1 (2) if he is financially unable to obtain
2 counsel, to be represented by the district public defender at
3 all stages of the proceedings against him.

4 B. Following notification of [~~any~~] a person [~~under~~]
5 pursuant to Subsection A of this section, the judge shall
6 notify the district public defender and continue the
7 proceedings until the person has applied with the district
8 public defender.

9 C. A person shall pay a non-refundable application
10 fee of [~~ten dollars (\$10.00)~~] twenty dollars (\$20.00) at the
11 time the person applies with the public defender for
12 representation. The fee shall be deposited in the public
13 defender automation fund. The public defender shall determine
14 if the person is indigent and unable to pay the fee, subject to
15 review by the court. When the person remains in custody and is
16 unable to pay the fee, the court may waive payment of the fee.

17 D. Peace officers shall notify the district public
18 defender of [~~any~~] a person not represented by counsel who is
19 being forcibly detained and who is charged with, or under
20 suspicion of, the commission of [~~any~~] a crime that carries a
21 possible sentence of imprisonment, unless the person has
22 previously appeared in court upon that charge.

23 E. [~~Any~~] A person entitled to representation by the
24 district public defender may intelligently waive his right to
25 representation. The waiver may be for all or any part of the

underscored material = new
[bracketed material] = delete

1 proceedings. The waiver shall be in writing and countersigned
2 by a district public defender."

3 Section 2. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2004.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25